

REMARKS

I. Status of the Application.

Claims 1-9, 12-18, 52, and 53 were pending in the Application as of the date of the Office Action. In the Office Action, the Examiner:

- (a) determined that the restriction requirement was proper, making it final;
- (b) objected to the drawings as failing to include reference signs mentioned in the description and as allegedly not showing every feature of the invention specified in the claims;
- (c) objected to the specification as allegedly failing to provide proper antecedent basis for claimed subject matter;
- (d) objected to claim 1 for having a typographical error;
- (e) rejected claims 13-15 under 35 U.S.C. § 112, second paragraph, for allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention; and
- (f) rejected claims 1-9, 12-18, 52, and 53 under 35 U.S.C. § 103(a) as allegedly being obvious over U.S. Patent No. 6,595,596 to Brightbill et al. ("Brightbill").

In this Response, Applicant respectfully submits the following remarks, amendments to the specification, amendments to claims 1 and 13, and new claim 59. Applicant respectfully submits that the following amendments and remarks herein traverse or overcome the Examiner's objections and rejections to the drawings, specification, and claims of the present Application.

II. No New Matter Is Introduced by Way of Amendment.

Applicant respectfully submits that no new matter has been introduced by way of amending the specification, amending claims 1 and 13, and adding new claim 59. Specifically, the amendments to the specification were made to remove reference characters that did not appear in the drawings as referenced in detail herein. The amendment to claim 1 was to correct for a typographical error, and the amendment to claim 13 was to remove a word that was allegedly contributing to the indefiniteness of claim 13. In addition, new claim 59 was added, which contains the same or similar subject matter as found in claims 1, 6, and 10 as originally filed. Applicant respectfully submits that the aforementioned amendments are supported by the originally filed Application and do not add new matter. Accordingly, Applicant respectfully requests that the amendments be entered and that the Application proceed to allowance for the reasons provided herein.

III. Substance of Examiner Interview.

On January 13, 2010 the undersigned and Lucy Trueman, additional counsel for Applicant, interviewed Examiner Edell in connection with the finality of the restriction presented in the Office Action. During the interview, the parties discussed the potential withdrawal of claim 10, the choice of one of two interchangeable second parts comprising a spring element as claimed in claim 1, and the potential addition of a new claim reciting that the spring element, as referenced within claim 1, is either an air spring or one or more mechanical tension springs. The Examiner has recited the foregoing within an Interview Summary dated January 19, 2010, which is made of record in the present matter. Consistent with the foregoing, Applicant offers the following remarks, amendments, and new claim 59.

IV. Applicant's Acknowledgement of Restriction Finality.

In the Office Action, the Examiner addressed Applicant's traversal of the restriction requirement, determining that the restriction was proper and making the restriction final. Office Action, page 2. By doing so, the Examiner also withdrew claims 10, 11, and 54 from further consideration. Applicant acknowledges the withdrawal of said claims and has properly marked claims 10, 11, and 54 as being withdrawn as referenced in the enclosed listing of claims.

V. The Examiner's Objections to the Drawings are Overcome and Should be Withdrawn.

In the Office Action, the Examiner objected to the drawings as allegedly failing to comply with 37 CFR 1.84(p)(5) for not including reference signs 7a and 11b mentioned in the description. Office Action, pages 2-3. Regarding reference sign 7a, Applicant respectfully submits that as previously referenced within paragraph [0029] of the Application as published, reference sign 7a corresponding to a roller was mentioned as not being shown within the drawings. To satisfy this particular drawings objection, and because the perspective views of the drawings in the Application did not permit identification of reference sign 7a therein, Applicant has amended paragraphs [0029] and [0030] to remove the reference to 7a. Similarly, and regarding reference sign 11b, Applicant respectfully submits that the perspective views of the drawings in the Application did not permit identification of wing 11b, and as such, Applicant has amended paragraphs [0033] and [0035] to remove the reference to 11b. Applicant respectfully submits that these amendments to the specification overcome the drawing objections regarding reference signs 7a and 11b, and that said objections should be withdrawn.

In addition, the Examiner also objected to the drawings under 37 CFR 1.83(a) as allegedly not showing every feature of the invention specified in the claims. This objection applied to three claim elements, namely (i) an air spring positioned between the base portion and one of the first and second arms as claimed in claim 7, (ii) the air spring positioned on a, or between two, suitable mountings as claimed in claim 9, and (iii) the one or more channels suitably sized to allow movement of the first arm free ends as claimed in claim 16.

In response, and to further prosecution of the present application, Applicant hereby cancels claim 7 to address the Examiner's first drawing objection. Regarding the second objection referenced in Applicant's claim 9, Applicant respectfully submits that at least FIG. 3 and its corresponding description within the specification of the present Application discloses said element. FIG. 3 of the present Application shows a mounting received by aperture 16 in the second arms 4 of the first part 1 of an exemplary seat suspension system as shown in FIG. 1. As shown in FIG. 3, the air spring 14 is mounted to the top portion, and FIG. 3 also shows the air spring 14 positioned between two suitable mountings positioned between the first arms or the second arms of the pair of arms. Applicant respectfully submits that as the drawings currently support air spring positioned on a, or between two, suitable mountings as claimed in claim 9, the objection to the drawings in connection with the same is overcome and should be withdrawn.

In addition, and regarding the third claim element referenced above in connection with claim 16, Applicant respectfully submits that the drawings also support that claim element. As shown in FIGS. 2 and 3, means to receive the free end of the or each of the first arms in the return nose 12 are shown therein, whereby a channel is formed in which the free end of each arm is received. Applicant respectfully submits that such a channel is suitably sized to allow

movement of the free end of the first arm over a lower surface of the top portion of the channel. As such, Applicant respectfully submits that the drawings also support the claim element referenced above within claim 16, and that the objection to the drawings in connection with the same is overcome and should be withdrawn.

VI. The Examiner's Objection to the Specification is Overcome and Should be Withdrawn.

In the Office Action, the Examiner objected to the specification as allegedly not providing proper antecedent basis for claimed subject matter claimed in Applicant's claim 1. In particular, the Examiner required correction of "one of two interchangeable top portions" and "one of two interchangeable second parts." Office Action, page 4. Applicant respectfully disagrees, offering the following comments in connection with the specification of the present Application.

Regarding interchangeability, Applicant respectfully submits that the basis for the same can be found within the paragraph [0005] of the Application as published, which details various advantages of the disclosed system, including being able to provide manufacturing and replacement flexibility through the use of interchangeable components. The last sentence of this paragraph, in relevant part, specifically refers to system flexibility of "being able to change the top portion or components of the system as required." In addition, paragraphs [0031], [0035], and [0037] of the Application detail how an exemplary first part 1 can be releasably attached to one of two interchangeable top portions 9 and one of two interchangeable second parts 10 or 14. Applicant respectfully submits that it is clear from paragraphs [0031] and [0035] that the first option utilizes, for example, an exemplary top portion 9 and tension spring(s) 10 as shown in

FIG. 2, whereas the second option utilizes, for example, an exemplary top portion 9 and air spring(s) 14 as shown in FIG. 3. Each of these top portions 9 are described as being for releasable attachment to the first part of the seat suspension system indicated by reference numeral 1. Applicant respectfully submits that as shown in the figures, it is clear that the first part of the seat suspension system (shown by reference numeral 1 in FIG. 1) can receive either the top portion 2 having tension springs 10 as shown in FIG. 2, or the top portion 2 shown in FIG. 3 having an air spring 14. Accordingly, Applicant respectfully submits that the top portions shown in FIGS. 2 and 3 are understood to be interchangeable in the manufacturing process covered by Applicant's claim 1.

In addition, and as referenced within paragraph [0005] of the present Application, a noted advantage of the systems of the present disclosure is that the type of spring used need not be decided until late in a manufacturing process. This is because the first part 1 of the seat suspension system, and the two top portions as shown in FIGS. 2 and 3, can be made as three totally separate parts, and upon receipt of an order a manufacturer can choose the appropriate top portion to secure to the first part of the seat suspension system depending upon whether the customer wishes to have a tension spring or an air spring arrangement. Applicant respectfully submits that such flexibility can only be achieved because the top portions are interchangeable as described within the Application and shown in the figures.

In addition, and in reference to the phrase "one of two interchangeable second parts," this wording relates to the spring arrangement associated with the two top portions. Applicant respectfully submits that it is clearly shown within FIGS. 2 and 3 that the second member is associated with the top portion, and therefore with the top portion shown in FIG. 2, the second

member is a tension spring 10 arrangement, and with the top portion shown in FIG. 3, the second member is an air spring 14 arrangement. Accordingly, Applicant respectfully submits that the present Application clearly shows that the second members or spring arrangements referenced therein are interchangeable depending upon the needs of the client and the appropriate second member or spring arrangement is chosen with the appropriate top portion when the client needs are known.

Accordingly, Applicant respectfully submits that the specification and figures of the Application provide proper antecedent basis for the phrases "one of two interchangeable top portions" and "one of two interchangeable second parts" as claimed in Applicant's claim 1, and respectfully requests that the present objection to the specification be withdrawn for the foregoing reasons.

VII. The Examiner's Claim Objection is Overcome and Should be Withdrawn.

In the Office Action, the Examiner objected to claim 1 for having a typographical error. Office Action, page 4. To overcome this objection, Applicant has amended the word "clement" in claim 1 to "element" as properly referenced within said claim. Applicant respectfully submits that the foregoing amendment overcomes the Examiner's objection to claim 1 and that the claim objection should be withdrawn.

VIII. The Examiner's Rejection of Claims 13-15 Under 35 U.S.C. § 112, Second Paragraph, is Overcome and Should be Withdrawn.

Applicant respectfully submits that the Examiner's rejection of claims 13-15 are also overcome by way of claim amendments referenced herein, and that the rejection of claims 13-15 should also be withdrawn. In the Office Action, the Examiner rejected claims 13-15 under 35

U.S.C. § 112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Office Action, pages 4-5. Specifically, the rejection identifies the phrase "preferably a wing extending from the opposing long sides and the or each wing is provided with an aperture," alleging that the phrase currently renders the claim indefinite.

In response, and to overcome any question or doubt that the feature introduced by such language is merely exemplary of the remainder of the claim, and therefore not required, or is a required feature of the claims as referenced by the Examiner, Applicant has amended claim 13 to remove the word "preferably" from that claim. Applicant respectfully submits that the deletion of the word "preferably" from claim 13 overcomes the indefiniteness rejection under 35 U.S.C. § 112, second paragraph, and as such, Applicant respectfully requests that the rejection of claim 13 under 35 U.S.C. § 112, second paragraph, be withdrawn. Furthermore, and as claims 14 and 15 depend from claim 13, the rejection of claims 14 and 15 should also be withdrawn for the foregoing reasons.

IX. The Rejections of Claims 1-9, 12-18, 52 and 53 Under 35 U.S.C. § 103(a) as Allegedly Being Obvious Over Brightbill are Overcome and Should be Withdrawn.

Applicant respectfully submits that the rejections of claims 1-9, 12-18, 52 and 53 under 35 U.S.C. § 103(a) in view of Brightbill should be withdrawn because Brightbill does not disclose all the limitations of independent claim 1. As required under *Graham v. John Deere Co.*, the first steps in determining obviousness is to determine the scope and content of the prior art and ascertain the differences between the prior art and the claims at issue. 383 U.S. 1, 17-18 (1966). "In determining (such) differences between the prior art and the claims, the question

under 35 U.S.C. 103 is not whether the differences *themselves* would have been obvious, but whether the claimed invention *as a whole* would have been obvious." MPEP § 2141.02.

Applicant respectfully submits that Brightbill, as referenced in detail below, does not disclose a seat suspension system having "a first part having a base portion, means to receive the top portion and means to allow movement of the base portion and top portion towards and away from each other" as claimed within independent claim 1 of the present Application.

A. The Lateral Support of Brightbill Does Not Disclose, Teach, or Suggest a First Part Having a Base Portion as Claimed in Applicant's Claim 1.

Applicant respectfully submits that the lateral support of Brightbill does not disclose, teach, or suggest a first part having a base portion as claimed in Applicant's claim 1. In the Office Action, the Examiner alleged that Brightbill discloses "a first part 32 with a base portion and means to receive top portion and to allow movement of the base portion and top portion towards and away from each other." Office Action, page 5. Applicant respectfully disagrees.

In Brightbill, and as referenced in FIGS. 1 and 3 and in column 6, lines 42-45, for example, lateral support 32 is referenced and shown merely as "extend[ing] laterally across the chair 22 and [being] supported by the aprons 30," and as supporting a "two platform motion seat 20." Foundation or support 32 is also referenced within Brightbill at column 10, lines 3-6, but makes reference only to the orientation of said support 32 as being irrelevant. Applicant respectfully submits that the only other reference of a lateral support 32 within the specification of Brightbill can be found at column 14, lines 64-66, which makes reference to connecting a flat plate 118 to said support 32 using a threaded fastener, which is not relevant to the present inquiry.

Applicant respectfully submits that shown and described in Brightbill, lateral support 32 is merely a stationary support structure component of a chair such as shown in FIG. 1. The chair 22 of Brightbill has two legs 28, a back 24, two arms 26, and a seat 20 that is provided support by two vertical aprons 30 and a lateral support 32 positioned thereon. Brightbill, FIG. 1 and col. 6, lines 37-45. Applicant respectfully submits that contrary to the Examiner's position in the Office Action with respect to lateral support 32, the lateral support 32 of Brightbill does not teach, disclose, or suggest "a first part having a base portion, means to receive the top portion and means to allow movement of the base portion and top portion towards and away from each other" as claimed in Applicant's claim 1.

Support for Applicant's position may be found within the specification of the present Application. For example, and as found within paragraphs [0007] and [0008] of the present Application, the means to allow movement of the base portion and top portion towards and away from each other may be any suitable means, such as, for example, "the provision of at least one pair, preferably two pairs, of pivotally connected arms." Conversely, the lateral support 32 of Brightbill has no such means, as it is merely a stationary support structure as referenced above. As such, Applicant respectfully submits that the lateral support 32 of Brightbill does not teach, disclose, or suggest "a first part having a base portion, means to receive the top portion and means to allow movement of the base portion and top portion towards and away from each other" as claimed in Applicant's claim 1. At least for this reason, Applicant respectfully submits that the rejection of claim 1 under 35 U.S.C. § 103(a), and all claims dependent thereon as discussed below, is overcome and should be withdrawn.

B. The Rejection of Claims 2-6, 8, 9, 12-18, 52 and 53 are Moot and Should be Withdrawn.

Applicant respectfully submits that the rejection of claims 2-6, 8, 9, 12-18, 52 and 53 under 35 U.S.C. § 103(a) in view of Brightbill are all now moot and should be withdrawn because each of these claims either directly or ultimately depend from non-obvious independent claim 1. "If an independent claim is not obvious under 35 U.S.C. §103, then any claim depending therefrom is not obvious." MPEP § 2143.03 (citing *In re Fine*, 837 F.2d 1382, 1385 (C.C.P.A. 1970)).

X. Preliminary Request for Rejoinder.

As referenced by the Examiner in the original restriction dated August 4, 2009, should the elected claims of the Application be found allowable, withdrawn claims that depend therefrom or otherwise require the limitations of the allowable claims will be considered for rejoinder. In the present Response, Applicant respectfully submit that it has demonstrated that claim 1 contains patentable subject matter. Withdrawn claims 19-36 and 55-57 claim a kit for a vehicle suspension system, and withdrawn claims 37-48 and 58 claim a suspension system for a vehicle seat, each comprising the same or substantially similar elements as claimed in method claim 1. In addition, withdrawn claims 10, 11, and 54 claim a method of manufacture wherein the spring element comprises one or more mechanical tension springs.

Applicant respectfully requests that should the Examiner determine that pending claim 1 is allowable, the Examiner rejoin withdrawn independent claims 19 and 37, the claims dependent thereon, and claims 10, 11, and 54, allowing said claims along with claims 2-6, 8, 9, 12-18, 52, 53, and 59 of the Application because each of these claims contain allowable subject matter as

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referenced herein with respect to pending independent claim 1. Applicant respectfully makes this request to expedite the overall prosecution of the present claims and the withdrawn claims of the Application. Should the Examiner have any specific questions or concerns regarding this request, or if the Examiner would like to propose a potential Examiner's amendment regarding the same, it is requested that the Examiner please contact the undersigned to discuss the same prior to the issuance of a potential additional office action.

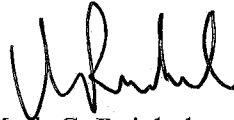
CONCLUSION

For all of the foregoing reasons, it is respectfully submitted that claims 1-6, 8, 9, 12-18, 52, 53 and 59, as currently amended or presented herein, are allowable claims and that Applicant has made a patentable contribution to the art. Favorable reconsideration and allowance of this Application is therefore respectfully requested.

In the event the Applicant has inadvertently overlooked the need for payment of an additional fee, Applicant conditionally petitions therefor, and authorizes any deficiency to be charged to deposit account 09-0007. When doing so, please reference the docket number P01487-US-00 (13030.0013). Should the Examiner have any questions regarding the present Response, it is respectfully requested that the Examiner call the undersigned to discuss the same prior to the issuance of a subsequent office action.

Respectfully submitted,

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